

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

Darryl Carter,)	
)	
Charging Party)	
)	
and)	Case No. L-CB-12-041
)	
American Federation of State, County and Municipal Employees, Council 31,)	
)	
Respondent)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

On April 18, 2012, Executive Director John F. Brosnan issued an order dismissing the unfair labor practice charge filed by Darryl Carter (Charging Party) in the above-captioned case. The Charging Party alleged that the American Federation of State, County and Municipal Employees, Council 31 (Respondent) engaged in unfair labor practices within the meaning of Section 10(b)(1) of the Illinois Public Labor Relations Act, 5 ILCS 315/10/10(b)(1) (2010), by not properly processing grievances because he had run for local union president in 2009. On April 28, 2012, Charging Party filed a timely appeal of the Executive Director's dismissal pursuant to Section 1200.135 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code §1200.135. The Respondent filed no response.

After reviewing the record and the appeal, we uphold the Executive Director's dismissal. Upon receipt of the charge and accompanying documents showing some processing of grievances after Charging Party's 2009 campaign for local president, a

Board agent wrote to charging party advising him of what would be necessary to demonstrate a violation of the duty of fair representation under Section 10(b)(1) of the Act—intentional conduct directed at the charging party because of charging party's past actions or status or because of animosity toward the charging party—and also of the statutory six-month limitation for filing charges set out in Section 11(a).¹ Advising him of the current inadequacies of his charge in relation to these points, the Board agent requested additional information, and set a deadline for a response. When, two weeks after that deadline had passed, Charging Party had still not responded, the Executive Director dismissed the charge.

Charging Party's appeal primarily references recent actions by his employer, not by Respondent, does not eliminate the inadequacies of his charge, and more immediately

¹ Section 10(b)(1) provides:

It shall be an unfair labor practice for a labor organization or its agents:

(1) to restrain or coerce public employees in the exercise of the rights guaranteed in this Act, provided, (i) that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein or the determination of fair share payments and (ii) that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under this Act[.]

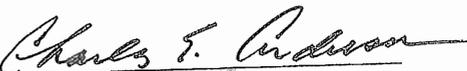
In relevant part, Section 11(a) provides:

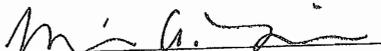
Whenever it is charged that any person has engaged in or is engaging in any unfair labor practice, the Board or any agent designated by the Board for such purposes, shall conduct an investigation of the charge. If after such investigation the Board finds that the charge involves a dispositive issue of law or fact the Board shall issue a complaint ... provided that no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge with the Board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice or was prevented from filing such a charge by reason of service in the armed forces, in which event the six month period shall be computed from the date of his discharge.

provides no explanation or argument with respect to the Executive Director's reason for dismissal: Charging Party's failure to comply with the Board agent's legitimate request for additional, necessary information. 80 Ill. Admin. Code §1220.40(a)(1);² County of Cook (Grover Stephens), 28 PERI ¶79 (IL LRB-LP 2011). Because of that failure to respond, we affirm the dismissal of the charge.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD


Robert M. Gierut
Chairman


Charles E. Anderson
Board Member


Richard Lewis
Board Member

Decision made at the Local Panel's public meeting in Chicago, Illinois, August 14, 2012; written decision issued in Chicago, Illinois on August 22, 2012.

² Section 1220.40(a)(1) of the Board's rules provides:

The charging party shall submit to the Board or its agent all evidence relevant to or in support of the charge. The evidence may include documents and affidavits. If the charging party does not comply with the agent's requests for information and documents, the agent may recommend dismissal of the charge.

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LOCAL PANEL

Darryl Carter,)	
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American Federation of State, County and Municipal Employees, Council 31,)	
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Respondent)	

DISMISSAL

On March 12, 2012, Darryl Carter (Charging Party) filed a charge with the Local Panel of the Illinois Labor Relations Board (Board), in Case No. L-CB-12-041, in which he alleged that American Federation of State, County and Municipal Employees, Council 31 (Union or Respondent) engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), *as amended* (Act). After an investigation conducted in accordance with Section 11 of the Act, I determine that the charge fails to raise an issue of law or fact sufficient to warrant a hearing and hereby issue this dismissal for the reasons stated below.

I. INVESTIGATORY FACTS

The Cook County Sheriff (Employer) employs Charging Party as a Sergeant. As such, he is included in a bargaining unit of employees represented by Respondent. Charging Party alleges that Respondent is not properly processing his grievances. He alleges that he has had problems with Respondent since he ran for Union President in June 2009.

The Board agent assigned to the case contacted the Charging Party and made a verbal request that the Charging Party provide evidence in support of the charge. The Charging Party failed to respond to this request for information. The Board agent again requested evidence in support of the charge by a letter dated March 26, 2012. The Charging Party has not responded to these requests to date.

II. DISCUSSION AND ANALYSIS

Section 1220.40(a)(1) of the Board's Rules and Regulations, 80 Ill. Admin. Code Sections 1200 through 1240, provides that "[t]he Charging Party shall submit to the Board or its agents all evidence relevant to the charge." The Board has interpreted this rule as allowing the executive director to dismiss the case where a charging party has not complied with a request for evidence in support of a charge. SEIU Local 880 (Kirk, et al.), 12 PERI ¶2006 (IL SLRB 1995) aff'd by unpub. order, 13 PERI ¶4008 (1996); State of Illinois, Department of Central Management Services (Department of Rehabilitation Services), 12 PERI ¶2005 (IL SLRB 1995), aff'd by unpub. order, 13 PERI ¶4008 (1996).

In the instant matter, the Charging Party failed to provide materials in support of the charge in response to multiple requests from the Board agent assigned to the case, and without the requested information, it is impossible to determine whether there exists an issue of law or fact warranting a hearing. Under these circumstances, the charge merits dismissal for failure to provide that information.

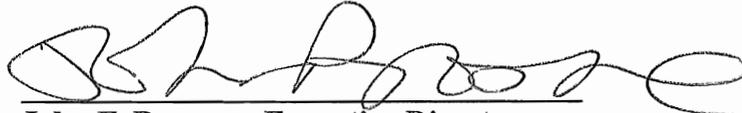
III. ORDER

Accordingly, the instant charge is dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 days of service hereof. Such appeal must be in writing, contain the case caption and number, and must be addressed to the Board's General

Counsel, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. The appeal must contain detailed reasons in support thereof, and the Charging Party must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, this dismissal will be final.

Issued in Chicago, Illinois, this 18th day of April, 2012.

**ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

A handwritten signature in black ink, appearing to read "John F. Brosnan", written over a horizontal line.

John F. Brosnan, Executive Director